



STATE OF TENNESSEE  
DEPARTMENT OF FINANCE AND ADMINISTRATION  
MEDICAL ASSISTANCE PARTICIPATION AGREEMENT  
(MEDICAID/TENNCARE TITLE XIX PROGRAM)  
FOR  
LEVEL II NURSING SERVICES

Name of Nursing Home \_\_\_\_\_

Address \_\_\_\_\_

Nursing Home License No. \_\_\_\_\_ Title XIX Provider No. \_\_\_\_\_

This Contract, made and entered into this \_\_\_\_\_ by and between the Tennessee Department of Finance and Administration, hereinafter designated as "the Department", and the \_\_\_\_\_, a Provider of Service, whose address is as stated above, hereinafter designated as "The Nursing Facility" Witnesseth :

WHEREAS, persons receiving public assistance payments from the Department of Human Services and other persons eligible for care under the Medical Assistance Program operating under Title XIX of the Social Security Act, are in need of medical care in the form of skilled nursing services;

WHEREAS, Section 1902(a) (27) of the Title XIX of the Social Security Act requires states to enter into written agreement with every person or institution providing services under the State Plan for Medical Assistance (Title XIX);

WHEREAS, acting pursuant to the Tennessee Medical Assistance Act of 1968 which makes the Department of Health the agency responsible for administering the Medical Assistance Program (Title XIX) in Tennessee, and authorizes the Department of Finance and Administration to take all necessary steps for the proper and efficient administration of the Tennessee Medical Assistance Program (Title XIX);

WHEREAS, to participate in the Tennessee Medical Assistance Program (Title XIX), the Nursing Facility must: (1) be licensed as a nursing home under the laws of Tennessee; (2) be currently meeting on a continuing basis standards for licensure; (3) be administered by a licensed nursing home administrator who holds a current license; and (4) meet, on a continuing basis, Federal standards for participation in Title XIX;



WHEREAS, The Nursing Facility has filed an application with the Department to provide medical care in the form of Level II services to any and all persons eligible under the Title XIX Medical Assistance Program and said application is incorporated by reference into this Contract and made a part hereof the same as if it were written herein.

NOW THEREFORE, the aforesaid application is approved by the Department subject to the following stipulations, terms, and conditions.

I. The Nursing Facility Agrees :

- A. To provide room and board, and medical care in the form of Level II services to Title XIX patients;
- B. To accept for payment for supplying the services in A above, the Department's vendor payment now in effect, or as hereafter modified :
  - 1. The vendor payment will be accepted as payment in full for the care of the patient.
  - 2. No additional charge will be made to the patient or any member of his/her family for any item except as allowed within Title XIX policies and regulations.
- C. To supply the Department full and complete information on all persons having an ownership, managerial or controlling interest in the Nursing Facility and to promptly report any changes which would affect the current accuracy of the information required to be supplied.
- D. To have and maintain an organized nursing service for Title XIX patients, which is under the direction of a professional registered nurse who is employed full-time by such nursing facility and which is composed of sufficient nursing and auxiliary personnel to provide and properly supervise Level II nursing services, as required by Title XIX standards, for such patients during all hours of each and every day of each week.
- E. To make satisfactory arrangements as required by Title XIX standards for professional planning and supervision of menus and meal service for patients, including special diets or dietary restrictions that are medically prescribed.
- F. To have satisfactory policies and procedures for :
  - 1. Maintaining all medical records on each patient in the nursing facility;
  - 2. Dispensing and administering drugs and biologicals;
  - 3. Assuring that each patient is under the care of a physician; and

4. Making adequate provision for medical attention to any patient during emergencies.

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- G. To have arrangements with one or more general hospitals under which such hospital or hospitals will provide needed diagnostic and other services to patients of such Nursing Facility under which such hospital or hospitals agree to timely acceptance, as patients thereof, of acutely ill patients of such Nursing Facility who are in need of hospital care.
- H. To meet the provisions of the Applicable Edition of the Life Safety Code (National Fire Protection Association, Bulletin No. 101, or such comparable State Fire and Safety Code), as are applicable to Skilled Nursing Homes.
- I. To have a licensed administrator.
- J. To meet sanitation standards approved by the Department.
- K. To allow regular medical reviews of each patient covered under the Title XIX program, including a medical evaluation of the patient's need for Level II services.
- L. To cooperate with state and federal personnel who make periodic inspections, medical reviews, and audits.
- M. To promptly inform the Department when individuals covered under the Title XIX program enter and leave the Nursing Facility.
- N. To immediately notify the Department of any change in its license to operate as issued by the Department of Health.
- O. To respect the observance of religious beliefs of all Title XIX patients.
- P. To provide cooperative methods and procedures as required by Title XIX standards :
  1. Relating to the utilization of care and services available as may be necessary to safeguard against unnecessary utilization of such care and services;
  2. Assuring that any changes made under the Title XIX program will be consistent with efficiency, economy, or quality of care;
  3. Assuring that the Nursing Facility shall not profiteer on drugs (or other items) for Title XIX patients, nor shall the Nursing Facility enter into any agreement with any supplier of drugs (or other items) for rebates or cutbacks for supplies;
- Q. To make available to the appropriate state and federal personnel at all reasonable times all necessary records including but not limited to the following :

1. Medical records as required by Section 1902(a)(28) of Title XIX of the Social Security Act, and any amendments thereto;

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2. Records of all treatments, drugs, and services for which vendor payments are to be made under the Title XIX program including the authority for the date of administration of such treatment, drugs or services and keep these records for a period of ten years;
  3. Documentation in each patient's record which will enable the Department to verify that each charge is due and proper prior to payment;
  4. Financial records of the Nursing Facility;
  5. All other records as may be found necessary by the Department in compliance with any federal or state laws, rules, or regulations promulgated by the United States Department of Health and Human Services, or by the Department.
- R. To comply with the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973 which prohibit participating providers from making a distinction on the basis of race, color, national origin, or handicap.
- S. To complete and sign a Nursing Home Application to participate in the Medical Assistance Program (Title XIX), and to keep the information in the application current with the understanding that the application becomes a part of this agreement and that each succeeding change in the application constitutes an amendment to the Agreement and that the failure to keep the information current constitutes a breach of the Agreement.
- T. That any breach or violation of any one of the above provisions shall make this entire agreement, at the Department's option, subject to immediate cancellation.
- U. To allow access of appropriate state and federal personnel to the premises of the Nursing Facility and allow such personnel to contact, if necessary, nursing home patients.
- V. To make every reasonable effort to correct any deficiencies of the Nursing Facility as reported by the State Certification Team.
- W. To comply with federal regulations requiring quarterly staffing reports (Ref – Part 405 of 42 CFR).
- X. In compliance with federal regulations regarding disclosure of ownership and related information, the Nursing Facility further agrees :
1. To keep any records necessary to disclose the extent of services the provider furnishes to recipients;

2. To furnish the Medicaid/TennCare agency, the Secretary of the state Medicaid/TennCare fraud control unit (on request) any information contained in the records including information regarding payments claimed by the provider for furnishing services under the plan;

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3. To disclose to the Department the identity of any person who has ownership or control interest in the facility, or is an agent or managing employee of the facility;
4. To disclose to the Department the name and address of each person with an ownership or control interest in the disclosing entity or in a subcontractor which the disclosing entity has a direct or indirect ownership interest of five (5) percent or more;
5. To inform the Department if any person(s) named in compliance with X.4. above is related to another as a spouse, parent, child, or sibling;
6. To name any other disclosing entity in which a person(s) with an ownership or control interest in the disclosing facility also has an ownership or control interest. This applies to the extent that the disclosing entity can obtain this information by requesting it in writing from the person;
7. To keep copies of all requests and the responses to them made in accordance with X.6. and to make them available to the Secretary or the Medicaid/TennCare agency upon request, and advise the Medicaid/TennCare agency when there is no response to a request;
8. To submit within thirty-five (35) days of the date of a request by the Secretary or the Medicaid/TennCare agency;
  - a. The ownership of any subcontractor with whom the provider has had business transactions totaling more than \$ 25,000.00 during the twelve (12) month period ending on the date of the request;
  - b. Any significant business transactions between the provider and any wholly-owned supplier, or between the facility and any subcontractor, during the 5 year period ending on the date of the request.
9. To furnish updated information to the Secretary or the state survey or Medicaid/TennCare agency at intervals between recertification or contract renewals within thirty-five (35) days of a written request;
10. To disclose to the Department the identity of any person in accordance with X.3. above that has been convicted of a criminal offense related to that person's involvement in any program under Medicare, Medicaid/TennCare or the Title XIX services program since the inception of those programs.

## II. The Department Agrees :

- A. To pay for such Level II services in the form of vendor payments (in amounts and under conditions determined by the Department) for all persons receiving

Level II services who have been determined by the Department to be eligible for such assistance under the Title XIX program.

- B. To make such payments in accordance with the applicable laws and as promptly as is feasible after a proper claim is submitted and approved.

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- C. To withhold payments if necessary because of irregularity from whatever cause until such irregularity or difference can be adjusted.
- D. To make proper adjustment in the vendor payments, as is indicated, to compensate for either overpayment or underpayment.
- E. To give to the Nursing Facility reasonable notice of any impending change in its status as a participating Nursing Facility.
- F. To notify the Nursing Facility of any major changes in Title XIX rules and regulations and to work with the individual Nursing Facility with the view toward providing the best Level II services available within the limitations of the law and available money.
- G. To provide a fair hearing to the Nursing Facility in the event the Department suspends or cancels the Nursing Facility from participation in the Title XIX program.
- H. To provide methods and procedures for establishing medical review of care and services in accordance with Title XIX standards.
- I. When it is determined that a patient requires a lesser level of care, payment for skilled care will be made up to a maximum of three days from the date it is determined lesser care is needed, to allow for a reasonable period to make an orderly transfer from skilled to a lesser type of care.

### III. The Department and the Nursing Facility mutually Agree :

- A. That in the event the federal and/or state laws should be amended or judicially interpreted so as to render the fulfillment of this agreement on the part of either party infeasible or impossible, or if the parties to this Agreement should be unable to agree upon modifying amendments which would be needed to enable substantial continuation of the Title XIX programs the result of amendments or judicial interpretations, then, and in that event, both the Nursing Facility and the Department shall be discharged from further obligation created under the terms of this agreement, except for equitable settlement of the respective accrued interest up to the date of termination.
- B. That the term of this agreement shall be for a period of Fifteen months, or until the federal and/or state government cease to participate in the program, or by mutual consent of the Department and the Nursing Facility or if not by such mutual consent, either party to this agreement may consider it canceled by giving notice in writing to the other party. If the Nursing Facility wishes to continue its participation in the program, it shall file a reapplication at least thirty (30)

days before the expiration date unless otherwise agreed upon by the parties. This agreement will automatically cancel no later than the 60<sup>th</sup> day following the end of the time period specified for the correction of non-waived deficiencies cited during the federal certification process if such deficiencies have not been corrected or substantial progress made in correcting these deficiencies. This process is subject to applicable state and federal regulations pertaining to appeals.

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- C. That, as the federal standards for participation are amended, modified or changed the Department shall immediately furnish the Nursing Facility a copy of any such changes and that the Nursing Facility shall accept such amendment, modification or change by acknowledging such change within thirty (30) days from receipt thereof, such signed acknowledgment by the Nursing Facility shall become a part of this agreement, the same as if written into the agreement, and the failure of the Nursing Facility to execute the acknowledgment and return to the Department shall constitute an automatic revocation of this Agreement.
- D. That the effective date for vendor payments will be the date that the Nursing Facility attains participating status as determined by the Department under the federal standards for participation, and that such determination shall be made a part of this Agreement;
- E. That this agreement shall not be transferable or assignable;
- F. It is agreed and understood that by signing this agreement, and/or the accompanying application (if applicable), the Nursing Facility and the Department accept all of the stipulations in the agreement, and agree to each and every provision therein.
- G. The Facility or the state may cancel this agreement by providing the other party with thirty (30) days written notice of such intent.

#### **Confidentiality of Records.**

Strict standards of confidentiality of records and information shall be maintained in accordance with applicable state and federal law. All material and information, regardless of form, medium or method of communication, provided to the Contractor by the State or acquired by the Contractor on behalf of the State shall be regarded as confidential information in accordance with the provisions of applicable state and federal law, state and federal rules and regulations, departmental policy, and ethical standards. Such confidential information shall not be disclosed, and all necessary steps shall be taken by the Contractor to safeguard the confidentiality of such material or information in conformance with applicable state and federal law, state and federal rules and regulations, departmental policy, and ethical standards. The Contractor's obligations under this section do not apply to information in the public domain; entering the public domain but not from a breach by the Contractor of this Contract; previously possessed by the Contractor without written obligations to the State to protect it; acquired by the Contractor without written restrictions against disclosure from a third party which, to the Contractor's knowledge, is free to disclose the information; independently developed by the Contractor without the use of the State's information; or, disclosed by the State to others without restrictions against disclosure. Nothing in this paragraph shall permit Contractor to disclose any information that is confidential under federal or state law or



regulations, regardless of whether it has been disclosed or made available to the Contractor due to intentional or negligent actions or inactions of agents of the State or third parties.

It is expressly understood and agreed the obligations set forth in this section shall survive the termination of this Contract.

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### **HIPAA Compliance.**

Contractor warrants to the State that it is familiar with the requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and its accompanying regulations, and will comply with all applicable HIPAA requirements in the course of this contract. Contractor warrants that it will cooperate with the State in the course of performance of the contract so that both parties will be in compliance with HIPAA, including cooperation and coordination with State privacy officials and other compliance officers required by HIPAA and its regulations. Contractor will sign any documents that are reasonably necessary to keep the State and Contractor in compliance with HIPAA, including but not limited to business associate agreements.

### **TBI MFCU Access to Contractor and Provider Records Program Integrity Access to Contractor, Provider, and Enrollee Records.**

Pursuant to Executive Order 47 and 42 C.F.R. § 1007, the Tennessee Bureau of Investigation Medicaid Fraud Control Unit (TBI MFCU) is the state agency responsible for the investigation of provider fraud, abuse, and neglect in the State Medicaid program (TennCare).

Program Integrity assists TBI MFCU with provider cases and has the primary responsibility to investigate TennCare enrollee fraud and abuse.

The Contractor shall immediately report to the TBI MFCU any known or suspected fraud, abuse, waste and/or neglect, including, but not limited to, the false or fraudulent filings of claims and/or the acceptance or failure to return monies allowed or paid on claims known to be false or fraudulent. The Contractor shall not investigate or resolve the suspicion, knowledge or action without informing the TBI MFCU, and must cooperate fully in any investigation by the TBI MFCU or subsequent legal action that may result from such an investigation.

The Contractor and all its health care providers, whether participating or non-participating providers, shall, upon request, make available to the TBI MFCU any and all administrative, financial and medical records relating to the delivery of items or services for which TennCare monies are expended. In addition, the TBI MFCU must be allowed access to the place of business and to all TennCare records of any Contractor or health care provider, whether participating or non-participating, during normal business hours, except under special circumstances when after hour admission shall be allowed. The TBI MFCU shall determine any and all special circumstances.

Pursuant to the Health Insurance Portability and Accountability Act (HIPAA) privacy regulations, TBI MFCU is a health oversight agency. See 45 C.F.R. §§ 164.501 and 164.512(d) and 65 F.R. § 82462. In its capacity as a health oversight agency, TBI

MFCU does not need authorization in order to obtain enrollee protected health information (PHI). PHI is defined at 45 C.F.R. § 164.501. Because MFCU will request the information mentioned above for health oversight activities, "minimum necessary" standards do not apply to those disclosures to TBI MFCU that are required by law. See 45 C.F.R. §§ 164.502(b)(2)(iv), 164.502(b)(2)(v), and 164.512(d) and 65 F.R. §§ 82462 and 82673.

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The Contractor shall inform its participating and non-participating providers that as a condition of receiving any amount of TennCare payment, the provider must comply with this Section of this Contract regarding fraud, abuse, waste and neglect.

The Contractor and its participating and non-participating providers shall report TennCare enrollee fraud and abuse to Program Integrity. The Contractor and/or provider may be asked to help and assist in investigations by providing requested information and access to records. The Contractor and its health care providers, whether participating or non-participating providers, shall, upon request, make available any and all supporting documentation/records relating to delivery of items or services for which TennCare monies are expended. Shall the need arise, Program Integrity must be allowed access to the place of business and to all TennCare records of any TennCare Contractor or health care provider, whether participating or non-participating, during normal business hours.

#### **Debarment and Suspension.**

To the best of its knowledge and belief, the Contractor certifies by its signature to this Contract that the Contractor and its principals :

- A. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or State department or Contractor;
- B. have not within a three (3) year period preceding this Contract been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offence in connection with obtaining, attempting to obtain, or performing a public (federal, State, or Local) transaction or grant under a public transaction; violation of federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;
- C. are not presently indicted for or otherwise criminally or civilly charged by a government entity (federal, State, or Local) with commission of any of the offenses detailed in section b. of this certification; and
- D. have not within a three (3) year period preceding this Contract had one or more public transactions (federal, State, or Local) terminated for cause or default.

Contract Beginning Date : \_\_\_\_\_

Contract Ending Date : \_\_\_\_\_

Automatic Cancellation Clause Date : \_\_\_\_\_

Subject to Provision III – C (See Page 7)

Nursing Facility : \_\_\_\_\_

Address : \_\_\_\_\_

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Provider Number : \_\_\_\_\_

By : \_\_\_\_\_  
Administrator Date

Tennessee Department of Finance and Administration, Title XIX Agency

By : \_\_\_\_\_  
Commissioner Date